

Attachment D1

- ***Applicant's \$1,006,603 Payment Bond from Westchester Fire Insurance Company***
- ***Financial Qualifications of the Surety to meet the definition of a "Qualifying Surety" in the State of Illinois***
 - ***Westchester Fire Insurance Company (NAIC # 21121) meets the definition of a Qualifying Surety under Section 451.10. Westchester Fire Insurance Company is authorized by the U.S. Department of the Treasury pursuant to 31 USC 9305. To that end, Westchester Fire Insurance Company is listed as an Approved Surety under the U.S. Department of the Treasury's Circular 570. Proof of the listing is provided in the attached document listing Westchester Fire Insurance Company as a Certified Company on the U.S. Treasury's website. Westchester Fire Insurance Company has an underwriting limitation of \$80,293,000 which exceeds the Applicant's requirements.***

WITNESSETH: This Surety Bond is given by MC Squared Energy Services, LLC d/b/a "mc2 - Where Energy Comes From", 10 South Riverside Plaza, Suite 1800, Chicago, IL 60606, Principal, and Westchester Fire Insurance Company, 436 WALNUT STREET, P.O. BOX 1000, Philadelphia, PA 19106, as Surety, as jointly and severally bound unto Commonwealth Edison, as Oblige, in the amount of One Million Six Thousand Six Hundred Three and No/100 (USD \$1,006,603.00), for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors, assigns or other legal representatives.

WHEREAS, the Principal, has filed an application with the Illinois Commerce Commission for a certificate to operate as an alternative retail electric supplier ("ARES") in the State of Illinois as provided by the Illinois Public Utilities Act ("Act") and the applicable rules of the Illinois Commerce Commission.

WHEREAS, the Principal, as a condition for obtaining a certificate to operate as an ARES in the State of Illinois, has agreed to reimburse [obligations of the applicant to unaffiliated companies arising from the acquisition of electric energy that can be delivered to retail customers in the State of Illinois or Principal's Illinois retail customers ("customers") for the additional costs those customers incur to acquire electric energy as a result of Principal's failure to comply with its contractual obligation to supply such energy to those customers.]

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall fulfill its contractual [obligations of the applicant to unaffiliated companies arising from the acquisition of electric energy that can be delivered to retail customers in the State of Illinois or obligations to its Illinois retail customers] or to pay or cause to be paid to the Oblige, within the time ordered by the Illinois Commerce Commission, all additional costs that the Principal's [Wholesale suppliers or Illinois retail customers] incur to acquire electric energy as a result of Principal's failure to comply with Principal's contractual obligation to those customers to supply such energy, then this obligation shall be null and void with respect to and to the extent of such amounts that are timely paid; otherwise, this obligation shall remain in full force and effect.

This bond is subject to the following terms, limitations and conditions:

1. Notwithstanding anything herein to the contrary, the term of this bond shall become effective commencing 1/29/09 and expire 1/29/10.
2. Oblige shall apply any amounts paid on this bond against the amounts Principal's retail customers are owed by the Principal, in accordance with an Order of the Illinois Commerce Commission or a court of competent jurisdiction that finds Principal owes such amounts to Principal's customers.
3. The maximum amount of the liability of Surety by virtue of this obligation will be not more than \$356,505.00. In no event shall the bond amount be cumulative from year to year, or exceed the amount so stated above.
4. This bond is binding on Surety and its heirs, executors, administrators, successors, assigns, or other legal representatives.

PROVIDED FURTHER, that if the Surety shall so elect, this bond may be canceled by the Surety as to subsequent liability by giving Sixty (60) days notice in writing to said Oblige and the Illinois Commerce Commission.

In witness therefore, said Principal and said Surety have caused these presents to be duly signed and sealed this 29th day of January, 2009.

MC Squared Energy Services, LLC
d/b/a "mc2 - Where Energy Comes From"

Principal

by: 

Charles C. Sutton, Managing Member

Westchester Fire Insurance Company
Surety

by: 

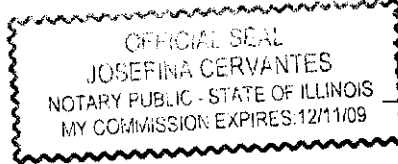
Judith A. McGoogan, Attorney-in-Fact

State of Illinois
County of Cook

On this 9th day of January 2009, before me personally appeared
Judith A. McGoogan, known to me to be the Attorney-in-fact of
Westchester Fire Insurance Company, the corporation that executed the
within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the
aforesaid county, the day and year in this certificate first above written.

(Seal)



Josefina Cervantes
(Notary Public)

Power of Attorney

274133

WESTCHESTER FIRE INSURANCE COMPANY



1260767

Know all men by these presents: That **WESTCHESTER FIRE INSURANCE COMPANY**, a corporation of the State of New York, having its principal office in the City of Atlanta, Georgia, pursuant to the following Resolution, adopted by the Board of Directors of the said Company on December 11, 2006, to wit:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such persons written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

FURTHER RESOLVED, that the Resolution of the Board of Directors of the Company adopted at the meeting held on November 8, 1999 relating to the authorization of certain persons to execute, for and on behalf of the Company, Written Commitments and appointments and delegations, is hereby rescinded.

Does hereby nominate, constitute and appoint **JOHN P. HARNEY, JACQUELYN M. NORSTROM, JOSEPH J. ZAHN, JUDITH A. MCGOOGAN and JOSEFINA CERVANTES** all of the City of Chicago, State of Illinois, each individually if there be more than one named, its true and lawful attorney-in-fact, to make, execute, seal and deliver on its behalf, and as its act and deed any and all bonds, undertakings, recognizances, contracts and other writings in the nature thereof in penalties not exceeding Ten Million Dollars (\$10,000,000) and the execution of such writings in pursuance of these presents shall be as binding upon said Company, as fully and amply as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office.

IN WITNESS WHEREOF, the said Stephen M. Haney, Vice-President, has hereunto subscribed his name and affixed the corporate seal of the said **WESTCHESTER FIRE INSURANCE COMPANY** this 22nd day of May 2008.

WESTCHESTER FIRE INSURANCE COMPANY



Stephen M. Haney

Stephen M. Haney, Vice President

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA ss.

On this 22nd day of May, A.D. 2008, before me, a Notary Public of the Commonwealth of Pennsylvania in and for the County of Philadelphia came Stephen M. Haney, Vice-President of the **WESTCHESTER FIRE INSURANCE COMPANY** to me personally known to be the individual and officer who executed the preceding instrument, and he acknowledged that he executed the same, and that the seal affixed to the preceding instrument is the corporate seal of said Company; that the said corporate seal and his signature were duly affixed by the authority and direction of the said corporation, and that Resolution, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Philadelphia the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

KAREN E. BRANDT, Notary Public

City of Philadelphia, Phila. County

My Commission Expires September 26, 2010

Karen E. Brandt

Notary Public

I, the undersigned Assistant Secretary of **WESTCHESTER FIRE INSURANCE COMPANY**, do hereby certify that the original POWER OF ATTORNEY, of which the foregoing is a substantially true and correct copy, is in full force and effect.

In witness whereof, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of the Corporation, this 29th day of January 2009



William L. Kelly

William L. Kelly, Assistant Secretary

THIS POWER OF ATTORNEY MAY NOT BE USED TO EXECUTE ANY BOND WITH AN INCEPTION DATE AFTER May 22, 2010

FINANCIAL MANAGEMENT SERVICE

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Surety Bonds

Department of the Treasury's Listing of Certified Companies

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Download the complete listing of Certified Companies  (109 KB)

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Acadia Insurance Company (NAIC #31325) 1

BUSINESS ADDRESS: P.O. Box 9010, Westbrook, ME 04098 - 5010. PHONE: (207) 772-4300.
UNDERWRITING LIMITATION b/: \$5,823,000. SURETY LICENSES c,f/: AZ, AR, CO, CT, DE, DC, GA, KY, ME, MD, MA, MS, NH, NJ, NM, NY, OK, PA, RI, SC, TN, TX, UT, VT, VA. INCORPORATED IN: New Hampshire.

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)

BUSINESS ADDRESS: 4798 New Broad Street, Suite 200, Orlando, FL 32814. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: \$2,224,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY (NAIC #22950)

BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050 - 2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: \$3,161,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION b/: \$3,888,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)

BUSINESS ADDRESS: P.O. BOX 351, VAN WERT, OH 45891 - 0351. PHONE: (419) 238-1010. UNDERWRITING LIMITATION b/: \$9,889,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)

BUSINESS ADDRESS: PO Box 1116, Meadville, PA 16335 - 7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: \$1,626,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: New York.

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Washington International Insurance Company (NAIC #32778)

BUSINESS ADDRESS: 1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, IL 60143. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: \$5,386,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company (NAIC #44393)

BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: \$21,388,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334-5571 x-6523. UNDERWRITING LIMITATION b/: \$51,091,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, MO, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #21121)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. BOX 1000, Philadelphia, PA 19106. PHONE: (215) 640-1000. UNDERWRITING LIMITATION b/: \$80,293,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company (NAIC #10008)

BUSINESS ADDRESS: P.O. BOX 21030, RENO, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: \$1,843,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, KS, MT, NV, NM, PA, TX, UT, WA. INCORPORATED IN: Nevada.

Western Surety Company (NAIC #13188)

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117 - 5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: \$43,477,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)

BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: \$72,727,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)

BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: \$17,896,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #39845) 10

BUSINESS ADDRESS: 5200 Metcalf Ave. OPN 232, OVERLAND PARK, KS 66201. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: \$306,201,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

WHITE MOUNTAINS REINSURANCE COMPANY OF AMERICA (NAIC #38776)

BUSINESS ADDRESS: ONE LIBERTY PLAZA - 19TH FLOOR, NEW YORK, NY 10006 - 1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: \$92,661,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

Attachment D2

Good Faith Estimate of Peak Load to be Served by Applicant

Applicant's good faith estimate of its expected maximum megawatts (MW) to be scheduled is twelve (12). Based on the Commission's January 13, 2009 Final Order, the average price of \$77.67 per MWH in Docket 09-0034. As shown in the calculation below, the obligation will be met through a Payment Bond in the amount of \$1,006,603 issued by Westchester Fire Insurance Company, a qualifying surety in the State of Illinois.

Payment Bond Calculation = $(12 \times 1,080 \times \$77.67) = \$1,006,603$

Peak MW's = 12.00

Factor of 1,080

Market Value per MWH in Commission Order 09-0034 = \$77.67

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
On Its Own Motion

Published Price Index for Electricity
pursuant to 83 Ill. Adm. Code 451

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09-0034

ORDER

By the Commission:

In 83 Ill. Adm. Code 451, "Certification of Alternative Retail Electric Suppliers", the Illinois Commerce Commission ("Commission") has established certain financial qualifications for applicants seeking to provide alternative retail electric service. Subparts B, C, and D each contain similar requirements for those applicants subject to the respective Subpart. The language in Section 451.110(a)(4), pertaining to one criterion that an applicant possesses sufficient financial capabilities, is repeated in Section 451.220(a)(4) and Section 451.320(a)(4), and reads as follows:

The applicant certifies that it will offer to reimburse its Illinois retail customers for the additional costs those customers incur to acquire electric energy as a result of the applicant's failure to comply with a contractual obligation to supply such energy. The applicant's prospective obligation to reimburse Illinois retail customers shall be covered by an unconditional guarantee, payment bond, or letter of credit. Any dollar limitation on the unconditional guarantee, payment bond, or letter of credit shall equal not less than the product of 1080 times an estimate of the maximum number of megawatts [Section 451.320(a)(4) writes "MW" instead of "megawatts"] the applicant expects to schedule over the next twelve months times the average of the 45 highest daily market prices of electric energy traded during the previous year. Each January, the Commission shall choose a published price index for electricity for use in this subsection (a)(4). The daily market price of electric energy shall equal the published price index for electricity traded in Illinois, except, in the event that no price index for electricity traded in the State of Illinois is published, then the daily market price of electricity shall be determined by the use of a published price index for electricity traded at the nearest location to the State of Illinois. The unconditional guarantee, payment bond, or letter of credit shall be valid for a period of not less than one year.

In a Staff Report dated January 5, 2009, the Staff of the Energy Division of the Commission recommends that the Commission adopt the PJM Day-Ahead Locational

Marginal Prices ("LMPs") for the Northern Illinois Hub. PJM energy market data are available on the PJM web-site, by location, at an hourly level of detail.

Using the above-referenced data, Staff has computed daily averages of the 2008 hourly PJM Day-Ahead Locational Marginal Prices for the Northern Illinois Hub, and has sorted these daily averages to find the 45 highest values. The average of these 45 highest values, which Staff recommends using for purposes of 83 Ill. Adm. Code 451 during 2009, is \$77.67 per MWh.

The Commission is satisfied with the Staff analysis of prices and accepts the recommendations of the Staff Report.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter of this proceeding;
- (2) the Staff Report dated January 5, 2009 should be made a part of the record of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this order are supported by the record which consists of the Staff Report and are hereby adopted as findings of fact;
- (4) the index price proposed by Staff is reasonable and should be adopted.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that, pursuant to 83 Ill. Adm. Code 451.110(a)(4), 83 Ill. Adm. Code 451.220(a)(4); and 83 Ill. Adm. Code 451.320(a)(4), the index of \$77.67 per MWh is adopted for the purpose of setting the dollar amounts of any unconditional guarantee, payment bond, or letter of credit.

IT IS FURTHER ORDERED that the Staff Report dated January 5, 2009 is made a part of the record in this proceeding.

IT IS FURTHER ORDERED that a copy of this Order be served upon all parties to Docket 99-0614, each certificated alternative retail electric supplier, and the Attorney General of the State of Illinois.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 13th day of January, 2009.

(SIGNED) Charles E. Box

Chairman